

**CHAPTER 69-09-05**  
**STANDARDS OF SERVICE - TELEPHONE**

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**69-09-05-00.1. Definitions.**

1. "Competitive local exchange company" means any telecommunications company providing local exchange service, other than an incumbent local exchange carrier, whether by its own facilities, interconnection, or resale.
2. "Eligible telecommunications carrier" means a telecommunications company designated under section 214(e) of the Telecommunications Act of 1996 as eligible to receive universal service support in accordance with section 254 of the Telecommunications Act of 1996.
3. "End user" means a person who uses telecommunications service for the person's own use.
4. "Incumbent local exchange company" means a telecommunications company that meets the definition of section 251(h) of the Telecommunications Act of 1996.
5. "Lifeline service" means a retail local telecommunications offering for which qualifying low-income consumers pay reduced recurring charges for universal service.

6. "Link-up service" means a reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence.
7. "Local exchange company" means an incumbent or competitive local exchange company.
8. "Telecommunications Act of 1996" means the Telecommunications Act of 1996 [Pub. L. 104-104; 110 Stat. 56; 47 U.S.C. 151 et seq.].

**History:** Effective January 1, 2001.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-21, 49-21-01.7

**69-09-05-01. Lowest priced service alternatives.** Upon request of a residential customer or prospective customer for service, the utility shall ask if such customer wishes to be informed of the lowest priced service alternatives available from the utility, and upon an affirmative response shall inform such customer of the lowest priced service alternatives available from the utility at the customer's location, giving full consideration to grades of service, equipment options, and installation charges incident thereto. The lowest priced service alternative includes service under the lifeline and link-up plans.

**History:** Amended effective January 1, 2001.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-21-01.4, 49-21-01.7, 49-21-07

**69-09-05-02. Discontinuance of telecommunications services.** A utility may not discontinue telecommunications services, except as provided in this section.

1. A utility may discontinue the essential services it provides:
  - a. If the customer is delinquent in payment for essential services, then essential services may be discontinued even though discontinuing the services results in the discontinuance of all telecommunications services.
  - b. If the customer is delinquent in payment for long-distance services rendered by a local exchange company or another company and billed by the local exchange company, but is not delinquent in payment for essential services rendered by the local exchange company, the local exchange company may discontinue the customer's local exchange services only at central offices lacking the technical ability to discontinue long-distance services while continuing to provide local exchange services.
2. A utility may discontinue nonessential services:

- a. If the customer is delinquent in payment for nonessential services.
  - b. If the customer is delinquent in payment for long-distance telecommunications services rendered by another company and billed by the local exchange company, then the local exchange company may deny the customer all forms of access to the network of the telecommunications company to which the customer is delinquent in payment. However, if due to technical limitations, a local exchange company must also deny the customer all forms of access to the long-distance networks of all telecommunications companies, including its own, in order to deny the customer access to the network of the company to which the customer is delinquent, the local exchange company may do so.
3. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and use of equipment, or for use of equipment which interferes with or adversely affects the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
4. A utility may not discontinue service to a customer for failure of the customer to pay for merchandise purchased from the utility, to pay for a different class of service furnished by the utility, to pay for service rendered to a previous occupant of the premises, or to pay the bill of another customer as guarantor thereof.
5. A utility may not discontinue service to a customer for failure to pay for service until the utility first gives the customer notice of its intention to discontinue such service on account of delinquency. The notice must:
  - a. Be sent by first-class mail addressed to the billing name and address of the affected account.
  - b. Show the amount of the delinquency.
  - c. Include the telephone number of the public service commission.
  - d. Advise the customer of the customer's rights and remedies, including the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts.
  - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill. The utility may discontinue service without further notice if the customer fails to pay the delinquent account by the due date.

6.
  - a. A deferred installment agreement for essential services may not be combined with a deferred installment agreement for any other services.
  - b. A utility may not discontinue essential services if the utility and the customer make a mutually agreed-upon deferred installment agreement for essential services. A utility may discontinue essential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
  - c. A utility may not discontinue nonessential services if the utility and the customer make a mutually agreed-upon deferred installment agreement for nonessential services. A utility may discontinue nonessential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
7. The customer may pay the delinquent account at any time prior to the actual discontinuance of service.
8. Whenever service has been discontinued for nonpayment of a bill, service must be resumed if the customer:
  - a. Pays the fee for resuming service established in the utility's rate schedules;
  - b. Makes a deposit under section 69-09-05-03 (if required by the company); and
  - c. Makes a satisfactory settlement for the delinquent bill and for the service rendered to the date the service was discontinued.

Interexchange carriers are not required to resume long-distance service if local service is not connected.

9. If the customer disputes the amount of a bill for service, the customer may, to prevent discontinuance for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility may not discontinue service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
10. The commission may order the discontinuance of services where a reseller or operator services provider violates commission rules.

The commission will provide ten days' notice of a deficiency or violation and provide an opportunity for the noncomplying reseller or operator services provider to respond or correct the deficiency. A reseller or operator services provider disputing the alleged violation or discontinuance may request a formal hearing under section 69-02-02-02, in which case the discontinuance will be stayed until final decision by the commission.

11. a. Except for discontinuance due to delinquency, a competitive local exchange company may not discontinue service to a customer without first providing the customer with twenty days' written notice of the intent to discontinue service. The notice of intent to discontinue service shall inform the customer of its right to choose between local exchange companies, if more than one local exchange company is providing essential services.
  - b. A telecommunications company may not interfere with a competitive local exchange company's obligation to provide notice to a customer; provided that a telecommunications company may disconnect service to a competitive local exchange company under the terms of a resale or interconnection agreement so long as the interconnection agreement is consistent with law and rules.
12. Except in the case of discontinuance for nonpayment, if a telecommunications company providing interexchange service intends to discontinue service or is forced to discontinue service due to abandonment, acquisition, bankruptcy, or for other reasons, the company must provide reasonable advance notice of the discontinuance to each customer. The notice must inform the customer that the customer must choose another primary interexchange carrier or use an alternative service.

**History:** Effective April 1, 1985; amended effective January 1, 1993; May 1, 1996; July 1, 1997, amendments voided by the Administrative Rules Committee, effective August 16, 1997; January 1, 2001; July 1, 2006.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

**69-09-05-02.1. Determination of delinquency.** For the purpose of discontinuing or resuming telecommunications service:

1. If a customer's partial payment on outstanding charges for telecommunications services excluding payments on a deferred installment agreement is less than the outstanding charges for essential services and federal access charges, the customer is delinquent in payment for essential services.
2. If a customer's partial payment on outstanding charges for telecommunications services excluding payments on a deferred

installment agreement is equal to or greater than the outstanding charges for essential services and federal access charges, the customer is not delinquent in payment for essential services.

**History:** Effective January 1, 1993.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

#### **69-09-05-03. Deposits and guarantees.**

1. Each telephone utility subject to the public service commission's jurisdiction may require each applicant for service to make a deposit not to exceed two times the estimated amount of one month's average bill. The utility shall each year pay interest on such deposit at the rate paid by the Bank of North Dakota on a six-month certificate of deposit. Such rate will be determined as of the first business day of each year on a six-month certificate of deposit with the smallest deposit required. The interest may be paid to the depositor or may be deducted from the depositor's indebtedness to the utility for telephone service. The payment or deduction for interest must be made during each calendar year, or whenever a deposit is refunded or service discontinued. The utility may accept in lieu of a cash deposit a contract signed by a guarantor, satisfactory to the utility, whereby the payment of a specified sum not to exceed the required cash deposit is guaranteed. The term of such contract must be indeterminate, but it must automatically terminate when the customer gives notice of service discontinuance to the utility or a change in location covered by the guarantee agreement or thirty days after written request for termination is made to the utility by the guarantor. However, no agreement may be terminated without the customer having made satisfactory settlement for any balance which the customer owes the utility. Upon termination of a guarantee contract, a new contract or a cash deposit may be required by the utility.
2. An eligible telecommunications carrier may not collect a service deposit in order to initiate lifeline service, if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available. If toll blocking is unavailable, the carrier may charge a service deposit.

**History:** Effective April 1, 1985; amended effective August 1, 1994; January 1, 2001.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

#### **69-09-05-04. Rules for resale of telecommunications services.**

1. Definitions.

- a. "Premise cable" means telecommunications cable or channels on the reseller's side of the point of connection to the local exchange company (demarcation point).
  - b. "Prepayment" means payments made by customers of a reseller in advance of receiving service. Prepayment includes a deposit and any customer payment for telecommunications service in advance of receiving the full amount of service for which payment is made.
  - c. "Resale" means the subscription to local or long-distance telecommunications services and facilities by one entity, and reoffered for profit or with markup to others with or without enhancements. Where reoffered service is part of a package, and the package is offered for profit or markup, it is resale.
  - d. "Reseller" means a person reselling local or long-distance telecommunications services. The definition does not include pay telephone providers, but does include a cellular and personal communication service provider who resells cellular or other wireless service.
  - e. "Same continuous property" is contiguous real estate owned by the same individual, group of individuals, or other legal entity having title to the property. The property may be traversed by streets, ditches, or other similar manmade or natural terrain features provided that, but for terrain features, the property would be contiguous and provided that such terrain features are of a nature and dimension that it is reasonable to treat the property as contiguous.
  - f. "Shared tenant service provider" means a person reselling telecommunications services to the tenants of a building complex on the same continuous property or to parties with a community of interest.
2. A reseller may not operate in North Dakota except in compliance with applicable laws and rules. A reseller shall:
- a. Register with the commission, on a form provided by the commission, indicating the provision of local resale or long-distance resale services in the state of North Dakota.
  - b. If a reseller requires prepayment for service, it shall:
    - (1) Submit a performance bond in an amount specified by the commission; or
    - (2) Establish an escrow account in a North Dakota bank containing an amount equal to the prepayments collected

at any given time, and file monthly reports showing escrow account activities and call completion data.

- (3) Under subsection 7 of North Dakota Century Code section 49-03.7-09 the bonding requirement does not apply to a facility-based company providing commercial mobile radio service, as defined in title 47, Code of Federal Regulations, part 20, section 20.3.
  - (4) The requirements of paragraphs 1 and 2 are subject to a twenty-five thousand dollar minimum for resellers of local service other than by means of a prepaid calling card. The required amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or twenty-five thousand dollars, whichever is greater. The required amount of an escrow account is an amount equal to the prepayments at any given time but no less than twenty-five thousand dollars.
  - (5) The requirements of paragraphs 1 and 2 are subject to a two thousand five hundred dollar minimum for resellers of any service other than the local service subject to paragraph 4. The amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or two thousand five hundred dollars, whichever is greater. The amount of an escrow account is an amount equal to the prepayments, including prepaid calling cards, at any given time.
- 3. A reseller may not be identified as an optional intrastate interexchange carrier unless it is registered with the commission.
  - 4. Except for residents of dormitories or residence halls of schools, colleges, or universities, the end user has the unrestricted right to choose service from the incumbent local exchange company.
  - 5. A shared tenant service provider shall allow the tenant to use the shared tenant service provider's premise cable and wire in the event an end user wants to receive service from the local exchange company.
  - 6. The reseller is responsible for the charges incurred for telecommunications services to which it subscribes for serving its end users.



7. A reseller is subject to revocation of its authority and the penalties provided in North Dakota Century Code chapters 49-03.1 and 49-07 for violation of any applicable law or rule.

**History:** Effective March 1, 1989; amended effective August 1, 1991; December 1, 1993; February 1, 1995; July 1, 1997; January 1, 2001; July 1, 2006.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

#### **69-09-05-04.1. Identification of intraLATA interexchange carriers.**

1. A local exchange carrier shall not identify a telecommunications company as an optional intrastate interexchange carrier unless the telecommunications company provides the local exchange company with evidence of an effective registration authorizing the provision of intrastate interexchange service.
2. A telecommunications company shall immediately notify in writing all local exchange companies for which it has requested identification as an optional intrastate interexchange carrier if the telecommunications company's authority to provide interexchange service is revoked or abandoned. A local exchange company shall cease to identify a telecommunications company as an optional intrastate interexchange carrier upon receipt of a written notice that the telecommunications company's authority to provide interexchange service has been revoked or abandoned.

**History:** Effective February 1, 1995; amended effective January 1, 2001; July 1, 2006.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-03.1-01, 49-03.1-03, 49-21

**69-09-05-04.2. Unauthorized service changes.** A telecommunications company may not change a customer's local or long-distance carrier without authorization from the customer.

**History:** Effective July 1, 1997.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-21, 49-21-01.7, 49-21-02.4, 49-21-07

#### **69-09-05-05. Rules for the provision of operator services.**

1. Definitions.
  - a. "End user" means the person to whom operator service is provided.
  - b. "Operator service" means service provided to assist in the completion or billing of telephone calls through the use of a live operator or automated equipment. "Operator service" does not

include completion of calls through an 800 number or an access code when billed to an account previously established with the carrier by the end user, or the automated operator services provided by pay telephone sets with built-in automated operator messages.

- c. "Operator service provider" means the person providing operator service.

2. Operator service providers shall:

- a. Register with the commission authorizing the provision of operator services in the state of North Dakota.
- b. Provide written material for use in disclosing to the end user the name and toll-free telephone number of the operator service provider. This material must be provided to all coin telephone operators, motels, hospitals, and any other locations where end users may use telephone service not billable to their home or business telephones without operator service.
- c. Require operators to clearly identify the operator service provider to all end users and when requested, provide rate information.
- d. Provide emergency call service that is equal to that provided by the local exchange telephone company and, if unable to meet this requirement, provide emergency call service by immediate transfer of such calls to the local exchange company.
- e. For billing purposes, itemize, identify, and rate calls from the point of origination to the point of termination. No call may be transferred to another carrier by an operator service provider which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.
- f. Not charge for incompleting calls.
- g. Disclose their names on bills which include charges for services they provided.

**History:** Effective March 1, 1989; amended effective August 1, 1991; May 1, 1996; January 1, 2001; July 1, 2006.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

**69-09-05-06. Rules for pay telephones.** Repealed effective August 1, 1994.

**69-09-05-07. Customer trouble reports.** When a customer's service is found to be out of order or a customer reports trouble, the local exchange telecommunications company shall test its facilities to determine if the problem is with the local exchange company's facilities. If it is, the local exchange company shall correct the trouble promptly. There may be no charge to the customer to test to determine if the problem is on the local exchange company's facilities or to correct a problem on the local exchange company's facilities. A local exchange company shall inform a customer in advance what charges will be assessed to identify or correct a problem located on the customer's facilities.

**History:** Effective August 1, 1991; amended effective January 1, 2001.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 49-21, 49-21-01.7

**69-09-05-08. Adoption of regulations.** The following parts of title 47, Code of Federal Regulations in effect as of July 17, 1997, are adopted by reference:

Part 54 - Universal Service, Subpart F - Universal Service Support for Schools and Libraries.

Copies of these regulations may be obtained from:

Public Service Commission  
State Capitol  
Bismarck, North Dakota 58505-0480

**History:** Effective March 1, 1998.

**General Authority:** NDCC 28-32-02, 49-02-01

**Law Implemented:** NDCC 49-21

**69-09-05-09. 911 and E-911 service.** Each competitive local exchange company shall provide 911 or E-911 service that is comparable to the 911 or E-911 service provided by the incumbent local exchange company operating in each respective service area in which the competitive local exchange company offers service.

**History:** Effective January 1, 2001.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-21, 49-21-01.7, 49-21-07, 49-21-24

**69-09-05-10. Registration - Procedure.**

1. A reseller or competitive facilities-based provider desiring authority to provide service in North Dakota shall register on a form provided by the commission. The registration shall include identification of the applicant's authority to do business in North Dakota.
2. A reseller shall follow the procedure set forth in section 69-09-05-04.

3. When a registered company intends to assign its authority to provide telecommunications service in North Dakota to another entity, the assignee must first register with the commission.
4. A registered company may voluntarily, without commission approval, surrender its authority by notifying the commission in writing and updating its registration to reflect this surrender.
5. A competitive local exchange company intending to surrender its authority to provide local exchange service must provide twenty days' prior written notice to the company's customers.

**History:** Effective January 1, 2001; amended effective July 1, 2006.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-03.1-01, 49-03.1-03, 49-21

**69-09-05-11. Certificate of public convenience and necessity for incumbent local telecommunications company - Procedure.**

1. An applicant for a certificate of public convenience and necessity as an incumbent local exchange company shall file an application with the commission which includes evidence of the applicant's authority to do business in North Dakota, conforms to the commission's rules of practice and procedure under article 69-02, and which identifies:
  - a. The type of service the applicant intends to provide.
  - b. The service area or areas in which the applicant intends to provide service.
  - c. How the applicant meets the issues to be considered in the application.
2. An applicant for a certificate of public convenience and necessity must also file consolidated financial statements for the most recent year available, including:
  - a. A balance sheet of the form and style usually followed in the industry.
  - b. An income statement of the form and style usually followed in the industry.
  - c. If available, an independent accountant's financial opinion.
  - d. Any other information requested by the commission.
3. In order to implement North Dakota Century Code chapter 49-03.1 consistent with the Telecommunications Act of 1996, issues to be

considered in an application for a certificate of public convenience and necessity for a facilities-based provider of telecommunications services are:

- a. Fitness and ability of the applicant to provide service.
  - b. Adequacy of the proposed service.
  - c. The technical, financial, and managerial ability of the applicant to provide service.
4. If the application is to be decided on a notice of opportunity for hearing, the applicant shall file affidavits sufficient to meet the applicant's burden of proof on the issues.
  5. When the holder of a certificate of public convenience and necessity intends to assign the authority to provide telecommunications service in North Dakota to another entity, the assignee must first obtain a certificate of public convenience and necessity from the commission.
  6. Abandonment of a certificate of public convenience and necessity for an incumbent local exchange company requires prior commission approval.

**History:** Effective January 1, 2001; amended effective July 1, 2006.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7(7)

#### **69-09-05-12. Eligible carrier applications and advertising.**

1. Eligible carrier applications:
  - a. A telecommunications company that desires designation as an eligible carrier as that term is defined in the Telecommunications Act of 1996 shall make application for such designation with the commission.
  - b. An application for designation as an eligible carrier must specifically identify:
    - (1) The applicant's service area;
    - (2) How the applicant meets the requirements for designation as an eligible carrier;
    - (3) Whether the applicant requires a waiver of any eligible carrier requirement; and

- (4) If a waiver is required, the specific reasons for the waiver and the length of time for which the waiver is required.
2. Eligible carrier advertising. The following forms of advertising of the availability of universal service are required of an eligible carrier:
  - a. A full description of available services in the eligible carrier's official telephone directory, including the process to be used by customers to qualify for lifeline and link-up service.
  - b. Advertising of the availability of universal services in media of general circulation in each eligible carrier's service areas. Availability may be advertised in newspapers, company newsletters, company or civic internet sites, bill stuffers, direct mailings, or other means intended to convey availability throughout the service area.

**History:** Effective January 1, 2001.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-21, 49-21-01.7, 49-21-07

**69-09-05-13. Essential service provider bills.** A provider of essential service, on any bill issued for the provision of essential services, shall:

1. Clearly disclose its name, business address, and a toll-free customer inquiry telephone number. The company name and business address must also be made available via the toll-free customer inquiry number;
2. Clearly and separately identify the essential services for which the bill is issued;
3. Clearly identify all taxes, fees, and surcharges associated with the essential services for which the bill is issued; and
4. Disclose that the provision of essential services may not be discontinued by the provider for nonpayment of charges for nonessential services or use other language that complies with federal billing rules.

**History:** Effective January 1, 2001.

**General Authority:** NDCC 28-32-02, 49-02-01.1, 49-21-01.7

**Law Implemented:** NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

**69-09-05-14. Procedure for filing negotiated interconnection agreements.** Carrier-to-carrier interconnection agreements adopted by negotiation must be filed for commission approval under 47 U.S.C. section 252(e), following the procedure set out in this section.

1. The requirements of this section apply to interconnection agreements negotiated under 47 U.S.C. section 251; assignments, assumptions or transfers of interconnection agreements; amendments to interconnection agreements; and agreements for Qwest platform plus (QPP) services. The requirements of this section do not apply to commercial line sharing agreements.
2. Each filing must include a completed cover sheet in a form prescribed by the commission.
3. Filed interconnection agreements will be listed on the commission internet site for comment by interested parties. The internet listing will include the date each agreement was filed and links to the agreement itself.
4. The commission will accept written comments on a listed agreement for sixty days from the date filed.
5. Absent commission action within ninety days of filing to disapprove an agreement, or portion thereof, the agreement will be deemed approved under 47 U.S.C. section 252(e)(4).
6. Any assignment, assumption, or transfer of an approved interconnection agreement requires notification to be filed with the commission within thirty days after the assignment, assumption, or transfer occurs.
7. Any amendment to an interconnection agreement requires a new filing with a new ninety-day review and comment period.

**History:** Effective July 1, 2006.

**General Authority:** NDCC 28-32-02, 49-21-01.7

**Law Implemented:** NDCC 49-21, 49-21-01.7